

For the Northern District of California

EDJUAN C. SCOTT, )  
Plaintiff, )  
vs. )  
PITTSBURG POLICE DEPT., et al., )  
Defendant(s). )  
)  
No. C 09-00862 JF (PR)  
ORDER OF DISMISSAL  
(Docket Nos. 2, 5, 6 & 7)

Plaintiff, a pretrial detainee at the Martinez Detention Facility, has filed a civil rights complaint. Plaintiff has also filed an application to proceed in forma pauperis. Plaintiff's complaint appears identical to the complaint filed in a prior case before this Court: Case No. C 09-00720 JF (PR), which is currently pending in this Court. Therefore, the instant case is DISMISSED as duplicative of Plaintiff's earlier filed complaint.

## DISCUSSION

## I. Standard of Review

Federal courts must engage in a preliminary screening of cases in which

1 prisoners seek redress from a governmental entity or officer or employee of a  
2 governmental entity. 28 U.S.C. § 1915A(a). The Court must identify cognizable  
3 claims or dismiss the complaint, or any portion of the complaint, if the complaint “is  
4 frivolous, malicious, or fails to state a claim upon which relief may be granted,” or  
5 “seeks monetary relief from a defendant who is immune from such relief.” Id. §  
6 1915A(b). Pro se pleadings must be liberally construed, however. Balistreri v.  
7 Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1990).

## II. Legal Claims

In his complaint, Plaintiff alleges that Defendants were negligent and acted with “complete disregard for [Plaintiff’s] well being and safety” during the course of his arrest for alleged crimes. (Compl. 4-5.) He seeks compensatory damages for the resulting post traumatic stress and chest and head pains. (*Id.* at 3.) Plaintiff’s claims are essentially identical to those stated his earlier complaint under Case No. C 09-00720 JF ( PR).

15           A complaint that merely repeats pending or previously litigated claims may  
16       be dismissed under the authority of 28 U.S.C. § 1915. Cato v. United States, 70  
17       F.3d 1103, 1105 n.2 (9th Cir. 1995); Bailey v. Johnson, 846 F.2d 1019, 1021 (5th  
18       Cir. 1988). This action is duplicative of an earlier complaint filed in this Court that  
19       is currently pending. As such, Plaintiff's complaint is DISMISSED as duplicative  
20       and for failure to state a claim for relief.

## CONCLUSION

23 For the foregoing reasons, Plaintiff's action is DISMISSED for failure to  
24 state a claim upon which relief may be granted. 28 U.S.C. § 1915A.

25 The Clerk shall terminate all pending motions as moot.

26 || IT IS SO ORDERED.

27 || DATED: 5/12/09

  
\_\_\_\_\_  
**JEREMY FOGEL**  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

EDJUAN C. SCOTT,

Case Number: CV09-00862 JF

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

PITTSBURG POLICE DEPT., et al.,

Defendants.

/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 5/15/09, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Edjuan C. Scott CC08AD969  
Martinez Detention Facility  
901 Court Street  
D-Module #27  
Martinez, CA 94553

Dated: 5/15/09

Richard W. Wieking, Clerk